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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,024	06/23/2003	Chia-Lung Shu	7257/69649	2596

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EXAMINER	
PEARSE, ADEPEJU OMOLOLA	
ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/603,024	SHU, CHIA-LUNG	
	Examiner	Art Unit	
	Adepeju Pearse	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duensing et al (U.S. Pat. No. 6,444,243) in view of Sherrill et al (U.S. Pat. 6,584,938), Sherrill (U.S. Pat. 5,673,653), Nishimori et al (U.S. Pat. No. 4,590,079) and Perlberg et al (U.S. Pat. No. 6,223,693). The references and rejections are incorporated as cited in the previous office action.

Response to Arguments

4. Applicant's arguments filed 11/17/2005 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.

1992). In the instant case, the applied references teach a rawhide chew toy comprising jerky pieces to attract the animals to motivate chewing.

5. At page 7 of the remarks, applicant states that Duensing et al and Sherrill et al failed to disclose the feature of coating the rawhide chew with meat and also failed to disclose preparing and processing meat. However, it would be obvious to one of ordinary skill in the art that the meat is processed in order to motivate the animals to chew on the toy. Applicant also states that the meat is coated on the rawhide without a mold. However, applicant discloses on page 3 lines 21-24 of the specification that a mold can be used to extrude the processed meat onto the surface of the rawhide chew toy.

6. Duensing et al disclose combining a marinade containing additives with rawhide to attract the animal as well as aid the health and well being of the animal. The marinated rawhide has flavor and/or additives impregnated throughout the rawhide. Duensing et al does not show coating meat on the rawhide. Sherrill et al ('938) teach an animal chew toy formed from rawhide and jerky pieces, the jerky meat is processed with spices and/or marinade for flavoring, which is expected to improve the taste of the meat. It would be obvious to one of ordinary skill in the art to modify Duensing et al with Sherrill et al by incorporating the jerky meat processed with marinade with the rawhide chew in order to attract the animal and motivate chewing. Even though Sherrill et al teach jerky meat interspersed in the rawhide, it would be obvious to one of ordinary skill in the art to expect that the purpose of using the jerky meat is to attract the animal whether it is interspersed or coated on the rawhide as long as it is noticeable to the animal. It should be noted that the step of coating the rawhide toy with meat does not exclude the addition

of rawhide. The fact that Sherrill ('938) includes rawhide in the jerky mixture, the claimed language fails to define over the combined teachings of reference in particular Sherrill ('938).

7. At page 8 of the remarks, applicant states that the rawhide pieces of Sherrill's patent is not stable enough to provide dogs with chewing for long time and are unable to satisfy the natural instinct to chew of dogs. The claimed method does not address such property, as such and since applicant has not admitted evidence to the contrary, applicant's argument lacks probative value. However; Sherrill et al teach that the animal chew toy is primarily for dogs, and is safe, entertaining, and satisfies their inherent and instinctive need to chew (abstract). In addition Sherrill et al teach that the rawhide chew can further include health-affecting additives.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adepeju Pearse whose telephone number is 571-272-8560. The examiner can normally be reached on Monday through Friday, 8.00am - 4.30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peju Pearse
Art Unit 1761

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